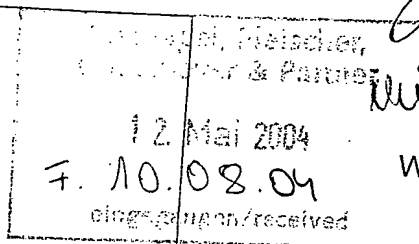


# PATENT COOPERATION TREATY

From the  
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:

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PCT

WRITTEN OPINION  
(PCT Rule 66)

Date of mailing  
(day/month/year)

10.05.2004

Applicant's or agent's file reference  
P20758WO

REPLY DUE

within 3 month(s)  
from the above date of mailing

International application No.  
PCT/EP 03/09086

International filing date (day/month/year)  
16.08.2003

Priority date (day/month/year)  
10.09.2002

International Patent Classification (IPC) or both national classification and IPC  
C11D3/37

Applicant  
ECOLAB INC. et al.

1. This written opinion is the **first** drawn up by this International Preliminary Examining Authority.
2. This opinion contains indications relating to the following items:
  - I ☒ Basis of the opinion
  - II ☐ Priority
  - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
  - IV ☐ Lack of unity of invention
  - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
  - VI ☐ Certain documents cited
  - VII ☐ Certain defects in the international application
  - VIII ☐ Certain observations on the international application
3. The applicant is hereby **invited to reply** to this opinion.
 

When? See the time limit indicated above. The applicant may, before the expiration of that time limit, request this Authority to grant an extension, see Rule 66.2(d).

How? By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

Also: For an additional opportunity to submit amendments, see Rule 66.4.  
For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis.  
For an informal communication with the examiner, see Rule 66.6.

If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.
4. The final date by which the international preliminary examination report must be established according to Rule 69.2 is: 10.01.2005

Name and mailing address of the international preliminary examining authority:



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## I. Basis of the opinion

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed"*):

## Description, Pages

1-10 as originally filed

## Claims, Numbers

1-15 received on 13.03.2004 with letter of 11.03.2004

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
  - ☐ the language of publication of the international application (under Rule 48.3(b)).
  - ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).
3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:
- ☐ contained in the international application in written form.
  - ☐ filed together with the international application in computer readable form.
  - ☐ furnished subsequently to this Authority in written form.
  - ☐ furnished subsequently to this Authority in computer readable form.
  - ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
  - ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.
4. The amendments have resulted in the cancellation of:
- ☐ the description, pages:
  - ☐ the claims, Nos.:
  - ☐ the drawings, sheets:
5. ☐ This opinion has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).
6. Additional observations, if necessary:

## V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

## WRITTEN OPINION

International application No. PCT/EP 03/09086

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Novelty (N) Claims 11-13

Inventive step (IS) Claims 1-15

Industrial applicability (IA) Claims

### 2. Citations and explanations

**see separate sheet**

Reference is made to the following documents:

- D1: EP-A-0 959 125 (PINGO ERZEUGNISSE WELSCH & KUFFNER) 24 November 1999 (1999-11-24)
- D2: US-A-5 770 548 (LESKOWICZ JAMES J ET AL) 23 June 1998 (1998-06-23)
- D3: DE 199 36 179 A (HENKEL ECOLAB & CO OGH) 8 February 2001 (2001-02-08)

- V. The subject-matter of claims 1, 9, and 12 to 15 lacks novelty or at least an inventive step in view of the documents cited herein above. (Article 33 (1) to (3) PCT)
- 1. Claims 1 and 15 define the use of a composition for cleaning vehicle surfaces. The composition comprises a sequestrant selected from polyamino acids and polycarboxylic acids and gluconic acid as an additional component. Claims 11 to 13 are directed to methods of producing respective cleaning compositions and claim 14 claims a vehicle cleaning method.

D2 shows vehicle cleaners comprising a polyacrylate. A preferred sequestrant is gluconic acid. See D2, column 1, line 12 to column 2, line 13 and examples 1 and 2, which disclose compositions comprising a mixture of gluconic acid and also hydrophilic polyacrylates. It is submitted that it is generally not possible to distinguish between gluconates and gluconic acid in aqueous compositions, since under usual conditions at least a part of the acid is dissociated. Although D2 does not unambiguously disclose the use of claim 1, D2 is relevant for novelty of present claims 11 to 13. In these method claims the intended use is of no relevance as long as the composition would be suitable for this purpose. Moreover, a method for preparing a composition by simple means as mixing or diluting can only be regarded as novel and inventive, when the product itself is novel and inventive. The remaining claims are rendered obvious in view of this document. D2 teaches that compositions comprising acrylic copolymers and gluconic acid are suitable for cleaning cars.

D3 teaches that metallic stains can be effectively removed by cleaning

compositions comprising polyamino acids. Combinations with gluconic acids are especially contemplated, see D3, claims, examples, page 2, line 19 to page 3, line 31. It is obvious for the skilled worker, when looking for compositions for removing metallic stains from vehicles or vehicle parts, which is also the problem of the instant application, to take the compositions from D3. Thus the use of these compositions for removing metallic stains from other surfaces such as vehicles is obvious for those skilled in the art. The subject-matter of claims 11 to 13 is already known from D3.

D1 discloses a hard surface cleaning composition, especially for cars, comprising polyacrylic acid, see D1, claim 1, paragraphs 0002, 0009, and 0010, example 2. D1 is silent on gluconic acid. Since it is already known that gluconic acid serves as a sequestrant, the skilled worker would add this component in order to further improve the cleaning efficacy of the compositions of D1.

Moreover, there is no evidence in the application documents which gives support for an inventive step. The examples are not suitable as an evidence, since applicants provided comparative samples, which differ in various components. Thus, there is no proof for the relevance of the polyaspartic acid or even the combination thereof with gluconic acid. Nevertheless, even this combination is obvious in view of the cited documents (see above).

Claims 11, 12, and 15 do not comply with Article 6 PCT. Said claims refer to the compositions **according** to claims 1 to 8. However, compositions are not the subject-matter of claims 1 to 8, rather these claims claim the use of respective compositions.